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February 20, 2020

By ECF and UPS

The Honorable Richard M. Berman
United States District Court for the Southern
District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 17B
New York, NY 10007

Re: HDI Global SE v. Phillips 66 Company, No. 1:20-cv-631(RMB)

Dear Judge Berman:

We represent Respondent Phillips 66 Company as successor interest to Tosco Corporation (“Tosco”), and write in response to Gerling’s letter filed at 10:08 p.m. last night.

Tosco was informed by email from Gerling’s counsel at 8:31 p.m. last night that it intended to file a request for a 14 day extension to reply to the Opposition to Petition to Vacate Arbitration Award filed by Tosco on the afternoon of February 14, 2020. Since Gerling gave Tosco only one and one half hours’ notice (after business hours) of its intention to seek an extension, we were not able to confer with Gerling’s counsel (or our client) regarding an agreeable extension of time. Gerling is also aware that I was in London last night as my out of office message made clear.

Tosco does not agree that Gerling requires 14 extra days to reply to the Opposition to Petition to Vacate and the Motion to Confirm given the parallel nature of these requests for relief. Nonetheless, had Gerling given Tosco adequate notice, Tosco would have consented (and does consent) to an extension to respond by February 24, 2020, providing Gerling ten days to file its reply, as well as providing the Court and Tosco with Gerling’s position in advance of the currently scheduled February 26, 2020 conference before Your Honor.¹ In the alternative, we suggest the parties be prepared to discuss timing of Gerling’s response at the February 26 conference.

¹ This is not the first time Gerling has placed an unreasonable time pressure on Tosco in connection with this matter. Despite being bound to confidentiality about the arbitration, Gerling informed Tosco that it intended to file the Petition to Vacate one day before its statutory deadline, which also happened to be the day after its attempt to file the Petition to Vacate under seal was rejected by Judge Nathan in the Southern District of New York.

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Respectfully submitted,



John N. Ellison

JNE:ns

cc: Michael A. Knoerzer, Esq. (*by ECF*)
Alex Bein, Esq. (*by ECF*)
Thomas G. Carruthers, Esq. (*by ECF*)